

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ILLINOIS SOYBEAN
ASSOCIATION, IOWA SOYBEAN
ASSOCIATION, MINNESOTA
SOYBEAN GROWERS
ASSOCIATION, NORTH DAKOTA
SOYBEAN GROWERS
ASSOCIATION, OHIO SOYBEAN
ASSOCIATION, SOUTH DAKOTA
SOYBEAN ASSOCIATION, CLEAN
FUELS DEVELOPMENT
COALITION, ICM, INC., AND
DIAMOND ALTERNATIVE
ENERGY, LLC,

Petitioners,

v.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY,

Respondent.

Case No. 23-1145

NON-BINDING STATEMENT OF ISSUES

Pursuant to this Court’s June 6, 2023 Order, Petitioners the Illinois Soybean Association, the Iowa Soybean Association, the Minnesota Soybean Growers Association, the North Dakota Soybean Growers Association, the Ohio Soybean Association, and the South Dakota Soybean Association (collectively, the “State Soybean Associations”), Clean Fuels Development Coalition, ICM, Inc., and Diamond Alternative Energy, LLC (together with the State Soybean Associations,

the “Petitioners”) hereby submit the following non-binding statement of issues presented for review:

1. Whether EPA exceeded its authority under Section 209(b) of the Clean Air Act in granting California a preemption waiver for heavy-duty vehicle and engine emission standards.
2. Whether EPA’s decision to grant California a preemption waiver for heavy-duty vehicle and engine emission standards was arbitrary, capricious, or otherwise contrary to law.
3. Whether EPA’s decision to grant California a preemption waiver for heavy-duty vehicle and engine emission standards is arbitrary and capricious or otherwise contrary to law because those standards are preempted by the Energy Policy and Conservation Act.
4. Whether Section 209(b) of the Clean Air Act violates the constitutional equal sovereignty doctrine either (a) on its face; or (b) to the extent it is employed to grant waivers to standards that address the global issue of climate change.

This is a preliminary listing of issues that Petitioners may raise. Petitioners reserve their right to modify this statement of issues, as well as to raise these and other issues.

Date: July 6, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on July 6, 2023, I electronically filed the foregoing Nonbinding Statement of Issues with the Clerk of Court for the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Date: July 6, 2023

Respectfully submitted,

/s/ Matthew W. Morrison
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